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NOTICE OF ALLOWANCE AND FEE(S) DUE

81905 7590 07/01/2010

Hanley, Flight & Zimmerman, LLC
150 S. Wacker Dr. Suite 2100
Chicago, IL 60606

EXAMINER

SHANG, ANNAN Q

ART UNIT

PAPER NUMBER

2424

DATE MAILED: 07/01/2010

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

09/883,546

06/18/2001

Paul Donato

2000442-US

1399

TITLE OF INVENTION: PROMPTING OF AUDIENCE MEMBER IDENTIFICATION

| APPLN. TYPE | SMALL ENTITY | ISSUE FEE DUE | PUBLICATION FEE DUE | PREV. PAID ISSUE FEE | TOTAL FEE(S) DUE | DATE DUE |
|----------------|--------------|---------------|---------------------|----------------------|------------------|------------|
| nonprovisional | NO | \$1510 | \$300 | \$0 | \$1810 | 10/01/2010 |

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail

**Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

81905 7590 07/01/2010

**Hanley, Flight & Zimmerman, LLC
150 S. Wacker Dr. Suite 2100
Chicago, IL 60606**

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

| |
|--------------------|
| (Depositor's name) |
| (Signature) |
| (Date) |

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/883,546 | 06/18/2001 | Paul Donato | 2000442-US | 1399 |

TITLE OF INVENTION: PROMPTING OF AUDIENCE MEMBER IDENTIFICATION

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|----------------|--------------|---------------|---------------------|----------------------|------------------|------------|
| nonprovisional | NO | \$1510 | \$300 | \$0 | \$1810 | 10/01/2010 |

| EXAMINER | ART UNIT | CLASS-SUBCLASS |
|----------------|----------|----------------|
| SHANG, ANNAN Q | 2424 | 725-024000 |

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/147; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

1

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

2

3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY AND STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 09/883,546 | 06/18/2001 | Paul Donato | 20004/42-US | 1399 |
| 81905 | 7590 | 07/01/2010 | EXAMINER | |
| SHANG, ANNAN Q | | | | |
| ART UNIT | | | PAPER NUMBER | |

2424

DATE MAILED: 07/01/2010

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 841 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 841 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability**Application No.**

09/883,546

Applicant(s)

DONATO, PAUL

Examiner

ANNAN Q. SHANG

Art Unit

2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Appeal Brief filed 03/17/10.
2. ☒ The allowed claim(s) is/are 194, 3-5, 10-12, 14-23, 37, 38, 41, 48, 54, 56-64, 67-69, 76-78, 82-90, 134-138, and renumbered as claims 1-142 respectively (see Allowable Subject Matter, page 1 of Detailed Action).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/Annan Q Shang/
Primary Examiner, Art Unit 2424

DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Chad A. Pahnke (63,568) on June 6, 2010.

2. The application has been amended as follows (**please refer to Amendments after Final, mailed 03/23/09**):

In claim 107, line 1, please delete "...claim 91..." and insert "...claim 105...";

In claim 134, line 1, please delete "...claim 182..." and insert "...claim 194..."; and insert "...first..." before "probability" on line 2.

In claim 139, line 1, please delete "...claim 184..." and insert "...claim 200..."; and insert "...first..." before "probability" on line 2.

In claim 144, line 1, please delete "...claim 186..." and insert "...claim 206...";.

In claim 149, line 1, please delete "...claim 182..." and insert "...claim 194..." and delete "person" after "the" on line 2; and insert "...first..." before "probability and "first audience member" before "is" on line 2; Claim 149, line 4, delete "person" and insert "first audience member;" On line 5, delete "a second person" and insert "the second audience member"

Art Unit: 2424

In claims 151, 153 and 154, line 1, please delete "...of distinguishing audience members..." after "method" on line 1

In claim 152, line 1, please delete "...of distinguishing audience members..." after "method" on line 1 and delete individual on line 2; On line 2, after "with the" please insert "first audience member" and on line 4, insert "first" after "the"

In claim 155, line 1, delete "claim 184" and insert "claim 200"; on line 2, insert "first" after "determine the"; on line 3, 4 and 5, delete "person"; on line 3, insert "first audience member" after "that the"; on line 4, insert "first audience member" after "with the"; on line 5, delete "a second" after "with" and insert "the second audience member;" after "with"

In claims 158 and 164, line 3, insert "first" after "the"

In claim 161, line 1, delete "claim 186" and insert "claim 206"; on line 2, 4 and 5, delete "person"; on line 2, insert "first" after "determine the"; on line 2, insert "first audience member" after "that the"; on line 4, insert "first audience member" after "with the"; on line 5, delete "a second" and insert "the second audience member" after "with"

In claim 164, line 3, insert "first" after "the"

In claim 167, delete "claim 182" and insert "claim 194"; delete "person" after "that the" and insert "first audience member" after "that the"

In claims 168, lines 2 and 4 or , delete "individual" or "individuals"; on line 1, insert "first audience member" after "the"; on line 4, insert "audience members"

Art Unit: 2424

after "of"; on line 5, delete "the individual causing" after "identifying" and insert "which of the audience members caused" after "identifying"

In claim 170, lines 2 and 4, delete "individual" or "individuals"; on line 1, insert "first audience member" after "the"; on line 4, insert "audience members" after "of"; on line 7, delete "the individual causing" after "identifying" and insert "which of the audience members caused" after "identifying"

In claim 171, lines 2 and 4, delete "individual" or "individuals"; on line 1, insert "first audience member" after "the"; on line 4, insert "audience members" after "of"; on line 6, delete "the individual causing" after "identifying" and insert "which of the audience members caused" after "identifying"

In claim 172, line 1, delete "claim 184" and insert "claim 200"; on line 3, delete "the person" and insert "the first audience member"

In claim 173, lines 2 and 5, delete "individual" or "individuals"; on line 2, insert "first audience member" after "identify the"; on line 5, insert "audience members" after "of"; on line 6, delete "the individual causing" after "identifying" and insert "which of the audience members caused" after "identifying"

In claim 175, lines 2 and 5, delete "individual" or "individuals"; on line 2, insert "first audience member" after "identify the"; on line 5, insert "audience members" after "of"; on line 8, delete "the individual causing" after "identifying" and insert "which of the audience members caused" after "identifying"

In claim 176, lines 2 and 4, delete "individual" or "individuals"; on line 2, insert "first audience member" after "identify the"; on line 4, insert "audience

Art Unit: 2424

members" after "of"; on line 6, delete "the individual causing" after "identifying" and insert "which of the audience members caused" after "identifying"

In claim 177, line 1, delete "claim 186" and insert "claim 206"; on line 2, delete "the person" and insert "the first audience member" after "that"

In claim 178, lines 2 and 4, delete "individual" or "individuals"; on line 2, insert "first audience member" after "the"; on line 4, insert "audience members" after "of"; on line 5, delete "the individual causing" after "identifying" and insert "which of the audience members caused" after "identifying"

In claim 180, lines 2 and 4, delete "individual" or "individuals"; on line 2, insert "first audience member" after "the"; on line 4, insert "audience members" after "of"; on line 7, delete "the individual causing" after "identifying" and insert "which of the audience members caused" after "identifying"

In claim 181, lines 2 and 4, delete "individual" or "individuals"; on line 2, insert "first audience member" after "the"; on line 4, insert "audience members" after "of"; on line 6, delete "the individual causing" after "identifying" and insert "which of the audience members caused" after "identifying"

In claim 212, line 2, insert "a computer readable memory" after "storing".

Allowable Subject Matter

3. **Claims 194, 3-5, 10-12, 14-23, 37, 38, 41, 48, 54, 56-64, 67-69, 76-78, 82-90, 134-138, 149-154, 167-171, 195-200, 96, 97, 99-101, 103-112, 114, 115, 139-143, 155-160, 172-176, 201-206, 118-120, 122, 124-131, 133,**

Art Unit: 2424

144-148, 161-166, 177-181 and 207-212 are allowed, and renumbered as 1-142 respectively.

4. The following is an examiner's statement of reasons for allowance:

With respect to independent claims 194, 200, 206 and 212, the instant invention is directed to an audience measurement system, method and apparatus for determining the audience of the receiver during a particular day part. The relevant prior art of record, such as **Williams et al (5,945,988)** discloses method and apparatus for automatically determining and dynamically updating user preferences in an entertainment system, which monitors audience of a the entertainment system. **Maissel et al (2003/0088872)** disclose advanced TV system, monitoring viewers at television receiver and providing real-time updates. **Eldering et al (6,457,010)** disclose client-server subscriber characterization system. **Alexander et al (6,177,931)** disclose systems and methods for displaying and recording control interface with TV programs. **Thomas et al (2005/0149964)** disclose program guide system with monitoring of ad usage and user activities. However, neither **Williams, Maissel, Eldering, Alexander nor Thomas** and any of the cited references teach or suggest, alone or in combination the feature of "...determining a first probability that the first audience member is in the audience based on the first viewing count and the second viewing count; comparing the first probability to a probability threshold; when at least one of the first probability traverses the probability threshold or the count is not equal to a number of audience members that are logged in to the measurement apparatus at the first location, presenting a prompt for user

Art Unit: 2424

identification; and storing an identification of at least one of the audience members." as recited in combination with other features of independent claims 194, 200, 206 and 212.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Aust et al (6,467,089) disclose audience measurement system incorporating a mobile handset

Gilley et al (4,769,697) disclose passive TV audience measuring systems.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

Art Unit: 2424

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC) at 866-217-9197 (toll-free)**. If you would like assistance from a **USPTO Customer Service Representative** or access to the automated information system, call **800-786-9199 (IN USA OR CANADA) or 571-272-1000**.

/Annan Q Shang/
Primary Examiner, Art Unit 2424

Annan Q. Shang